

***Software Import Requirements for Mexico:
Telecom & IT Trends Mexico 2004***

**International Market Insight
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by: Angeles Avila Chiquini
approver: Bryan D. Larson
U.S. Commercial Service, U.S. Embassy in Mexico City

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Custom duties, taxes and requirements

There are not regulations specific to software. Regular import regulations apply to software imports. Software is classified under Harmonized System Codes 8524.31, 8524.40 and 8524.91.

To identify the duties and taxes it is first required to know the medium in which the software is presented in order to correctly classify the import for customs purposes. However, the duties and taxes are assessed on the declared value by the importer of record. The import duty is calculated on the U.S. plant value (invoice) of the product plus the inland freight charges and any other costs listed separately on the invoice and paid by the importer, such as export packing.

Imports of packaged and customized software are duty free, if imported from NAFTA countries, but subject to a 15-percent Value Added Tax (VAT, or IVA in Spanish) of the CIF invoice value and the Customs Processing Fee (CPF). The CPF in Mexico is approximately US\$13, and it is assessed on the invoice value. However, as of July 1, 1999, definitive imports with a certificate of origin from NAFTA countries are no longer subject to payment of the CPF.

The participation of a customs broker is not obligatory for imports if all legal and technical requirements are met. However, the participation of a customs broker is suggested when the exporter is not familiar with the Mexican standards and customs processing procedures and is requested if the value is over US\$1,000.

A certificate of origin is required from all foreign suppliers or exporters. If the product qualifies as North American in content, the exporter must use the NAFTA Certificate of Origin in order to benefit from preferential treatment under NAFTA. This document may be issued by the exporter or broker and does not have to be validated or formalized.

Customized software is not treated differently than packaged software if a physical medium is involved. However, it is important to mention that customized software is often times considered under the category of consulting services. Consequently, there is no physical importation involved.

Software updates and licenses.

Any update or license shipped at a later date than the original shipment is subject to the same import duties and VAT as any regular importation. If the original invoice and shipment clearly specifies that updates will be shipped later, but the cost of the updates is included in the invoice, the update shipment will still be subject to the VAT. It is common to include the cost for the updates in the original invoice and send the updates via Internet in order to avoid paying duties and taxes, but the importation must be declared in any case.

License agreements violation.

If the software is registered with the Mexican Institute for Industrial Property (IMPI-Instituto Mexicano de la Propiedad Industrial), then there is a legal protection in Mexico, and the local law will apply in case of license agreement infringement. Note that registration with the IMPI is not mandatory. The IMPI has an ongoing inspection program, called “Zero Tolerance,” in which the IMPI confirms that users have the corresponding licenses.

Services related to the sale of software

Training, set-up, maintenance, or other services related to the sale of software are not subject to any type of tax unless an invoice is provided. If an invoice is provided, the local company is subject to the 15-percent VAT and an approximate 30-percent income tax (Impuesto Sobre la Renta – ISR).

There are no visas or work permits required for qualified U.S. solution providers to set up hardware/software related systems in Mexico.

Software delivered over the Internet

There is no special tax for software purchased/delivered over the Internet. The same import duties and taxes apply if the importation is registered with the Mexican authorities, even though the physical product is not presented. However, since there are no regulations to register software delivered over the Internet, this is not a common practice. Electronically delivered software is neither regulated nor tracked by any government agency in Mexico.

EXPO COMM MEXICO 2004

The U.S. Commercial Service, U.S. Embassy in Mexico encourages U.S. companies interested in market opportunities in Mexico to participate in the USA Pavilion and Product Literature Center at EXPO COMM MEXICO 2004, February 10 to 13. EXPO COMM MEXICO 2004, a U.S. Department of Commerce certified trade show and in its 13th year, is Mexico’s leading telecom, IT, wireless, networking and Internet technologies exhibition and conference. For more information, contact Beth Horton of E.J. Krause at Horton@ejkrause.com or 301-493-5500

x3312 or Angeles Avila of the U.S. Embassy in Mexico at Angeles.Avila@mail.doc.gov or 011-52-55-5140-2621.

TELECOM & IT TRENDS MEXICO 2004

This International Market Insight, produced as part of the Telecom & IT Trends Mexico 2004 project, is one in a series of special reports on the telecommunications, Internet, and IT market in the country. Telecom & IT Trends Mexico 2004 is a collaborative project of the U.S. Commercial Service and the International Trade Administration's Office of Telecommunications Technology. We would like to acknowledge the participation and support of Select Mexico (www.select.com.mx) for assistance provided in reviewing this report for accuracy and welcome the assistance of other qualified private-sector telecommunications research firms. This project, now in its second year, is in support of the USA Pavilion at EXPO COMM MEXICO 2004, a U.S. Department of Commerce certified trade show organized by E.J. Krause.

For more information on the Mexican IT and telecommunications market, please contact:

M. Angeles Avila Chiquini
Trade Specialist
U.S. EMBASSY, MEXICO
U.S. Commercial Service
Tel. 52-55/5140-2634
Fax. 52-55/5535-1139
e-mail: angeles.avila@mail.doc.gov

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